REMARKS

The Examiner has required a restriction to one of the following inventions:

Group I	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, EPO
Group II	Claims 1-7 and 9, drawn to a method comprising administering to a mammal, EPO receptor activity modulator, class dependent on EPO receptor activity
Group III	Claims 1-7 and 9, drawn to a method comprising administering to a mammal, EPO receptor-activated receptor modulator, class dependent on EPO receptor-activated modulator
Group IV	Claims 1-9, drawn to a method comprising administering to a mammal a nonerythropoietic, class dependent on nonerythropoietic EPO
Group V	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin analog, class dependent on analog
Group VI	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin mimetic, class dependent on mimetic
Group VII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin fragment
Group VIII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, hybrid erythropoietin fragment, class dependent on EPO hybrid fragment
Group IX	Claims1-7 and 9-11, drawn to a method comprising administering to a mammal erythropoietin receptor-binding molecule, class dependent on receptor-binding molecule
Group X	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin agonist, class dependent on agonist
Group XI	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, renal and brain erythropoietin
Group XII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin oligomer and multimers
Group XIII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, erythropoietin mutein
Group XIV	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal erythropoietin congener, classified in class dependent on congener
Group XV	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, naturally occurring form of erythropoietin

Group XVI	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal synthetic form of erythropoietin
Group XVII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal, recombinant form of erythropoietin
Group XVIII	Claims 1-7, 9 and 10, drawn to a method comprising administering to a mammal a combination thereof, class dependent on the combination of EPO compositions

In response, Applicants respectfully traverse the Examiner's restriction requirement. Applicants maintain that the restriction requirement is a restriction of a single invention, and therefore an improper restriction under 35 U.S.C. § 121. Applicants respectfully assert that the eighteen restriction groups required by the Examiner do not represent independent, separately patentable inventions but, rather, are properly characterized as species of a single generic invention.

In particular, the invention is directed to a method for drawn to a method for preventing or treating a neurodegenerative condition comprising administering to a mammal an erythropoietin composition capable of interacting with the EPO receptors of endothelial tight junctions. Such a generic composition includes various forms of EPO, including EPO analogs, mimetics, fragments, hybrid fragments, EPO agonists, etc. The Examiner contends, however, that methods recite administration to a mammal structurally and functionally distinct compositions and are not required one for the other, and, as such, constitute separate and distinct inventions. Applicants respectfully disagree, for the reasons set forth below.

The eighteen groups designated by the Examiner are method claims reciting functionally identical compositions. All groups recite methods of administering species of EPOs and EPO-like compounds which are capable of interacting with the EPO receptors of endothelial tight junctions, including the eighteen designated species of compounds with this functional characteristic in common. Thus, each of the eighteen groups represent a species of a single invention. Moreover, a search of all the methods of the invention would not constitute an undue burden, since many of these species of compounds fall into a number of the other groups. For example, an EPO (Group I), an EPO receptor activity modulator (Group II), an EPO receptor-activated receptor modulator (Group III), a non-erythropoietic EPO (Group IV), an analog (Group V), a mimetic (Group VI), a fragment (Group (Group VII), a hybrid EPO fragment (Group VIII) and an EPO receptor-binding molecule (Group IX), an EPO agonist (Group X), EPO oligomers and multimers (Group XII) all contain overlapping members and compositions with identical sequence and primary structure (*i.e.*, erythropoietin sequences). Thus, the searches required for Groups I-XVIII would be

coextensive. For the foregoing reasons, Applicants request modification of the restriction requirement to indicate a single invention with a species election rather than a restriction of the invention.

Despite Applicants' foregoing traversal, in order to be completely responsive to the outstanding restriction requirement, Applicants hereby provisionally elect Group XVII, Claims 1-7, 9, and 10, drawn to a method for administering a recombinant form of erythropoietin.

The Examiner has further required election of a single species of Claims 3 and 4, for prosecution on the merits, to which the claims shall be restricted if no generic claim is held to be allowable. Applicants respectfully traverse the species election requirements. Applicants assert that it would not be a serious burden on the Examiner to search any relevant art to the diseases recited in Claim 3 and the excitable tissue recited in Claim 4 because the search for these elements should have already been carried out in the search for relevant art related to Claim 1. Thus, a single search should, without undue burden, identify any relevant art pertaining to methods of enhancing excitable tissue for treating the diseases or disorders recited in Claim 3 or for methods of enhancing the excitable tissue of Claim 4.

In order to be fully responsive, however, Applicants hereby provisionally elect, with traverse, to prosecute cognitive dysfunction as the species of Claims 3, and central nervous system as the species of Claim 4.

Applicants respectfully request that the foregoing remarks made herein be entered into the record of the instant application.

Respectfully submitted,

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Enclosures